

**BEFORE THE MAHARASHTRA
REAL ESTATE REGULATORY AUTHORITY, MUMBAI**

Virtual Hearing held through video conference as per
MahaRERA Circular No.: 27/2020

1. COMPLAINT NO. CC005000000053983

HEMRAJ CHOUDHARY &
SANJU CHOUDHARY ...COMPLAINANTS
a/w

2. COMPLAINT NO. CC005000000053984

SAGAR SHETE &
SHUBHANGI TALEKAR ...COMPLAINANTS
a/w

3. COMPLAINT NO. CC005000000053986

HINA PENDHARI ...COMPLAINANT
a/w

4. COMPLAINT NO. CC005000000054017

TUSHAR PATIL ...COMPLAINANT
a/w

5. COMPLAINT NO. CC005000000054023

SNEHAL SAGAR BADGE &
SAGAR BADGE ...COMPLAINANTS
a/w

6. COMPLAINT NO. CC005000000064616

NIRAD CHARUL SMART ...COMPLAINANT
a/w

7. COMPLAINT NO. CC005000000064696

SANJUL ASHOKKUMAR LALWANI ...COMPLAINANT
a/w

8. COMPLAINT NO. CC005000000064703

VASANT HOLKAR ...COMPLAINANT
a/w

9. COMPLAINT NO. CC005000000064708

MAYANK ROTHE ...COMPLAINANT
a/w

10. COMPLAINT NO. CC005000000064710

SHARAD WAMAN JAGTAP ...COMPLAINANT

a/w

11. COMPLAINT NO. CC005000000064741

MANOJ MUDGAL &
NISHA SHARMA ...COMPLAINANTS

a/w

12. COMPLAINT NO. CC005000000064818

SNEHAL SUNIL DAHALE ...COMPLAINANT

a/w

13. COMPLAINT NO. CC005000000064843

AMOL DNYANDEV PATIL ...COMPLAINANT

a/w

14. COMPLAINT NO. CC005000000064962

PIYUSH SUBHASH WANARE ...COMPLAINANT

a/w

15. COMPLAINT NO. CC005000000075099

BHAVIN CHAUHAN &
DISHA CHAUHAN ...COMPLAINANTS

a/w

16. COMPLAINT NO. CC005000000075168

AMOL ABASAHEB GHADAGE ...COMPLAINANT

a/w

17. COMPLAINT NO. CC005000000085256

SOMNATH DAS ...COMPLAINANT

a/w

18. COMPLAINT NO. CC005000000085439

VINAYAK ASHOK MANE ...COMPLAINANT

a/w

19. COMPLAINT NO. CC005000000095804

MR. SWAPNIL REVA SAWDEKAR &
MRS. MANJUSHA SWAPNIL SAWDEKAR ...COMPLAINANTS

a/w

20. COMPLAINT NO. CC005000000096039

SACHIN BALKRUSHNA BHONDAVE

...COMPLAINANT

a/w

21. COMPLAINT NO. CC005000000106469

CHETAN JANARDAN YEWALE

...COMPLAINANT

a/w

22. COMPLAINT NO. CC005000000106747

MAHESH SABLE

...COMPLAINANT

VS

M/S. BHOOMI CONSTRUCTION

(Through its Proprietor Mr. Pankaj Prakash Yeola)

...RESPONDENT/S

MAHARERA PROJECT REGISTRATION NO. P52100007858

FINAL ORDER

February 21, 2023

(Date of hearing 20.09.2022 - matters were reserved for orders)

Coram: Shri. Ajoy Mehta, Chairperson, MahaRERA

Advocate Shubhada Deshpande for Complainants at Sr. No. 1 to 3 & 22

Complainants in person at Sr. Nos. 4, 6 to 11, 13, 14, 18 & 21

Sagar Badge for Complainants at Sr. No. 5

Sunil Dahale for Complainant at Sr. No. 12

Advocate Amit Patil for Complainants at Sr. No. 15,16 & 19

Advocate Shashwati Diksha for Complainant at Sr. No. 17

Advocate Mane Deshmukh for Complainant at Sr. No. 20

None present for Respondents

1. All the Complainants (*except the Complainant at Sr. No. 20 herein*) are home buyers and Allottees within the meaning of Section 2(d) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "**said Act**") of Real Estate Regulatory Authority (hereinafter referred to as the "**RERA**") and the Complainant at Sr. No. 20 is a Co-Promoter / Land Owner as mentioned on the MahaRERA Project registration webpage. The Respondent is the Promoter/Developer within the meaning of Section 2 (zk) of the said Act and is registered as the Promoter of the Project namely "BHOOMI ORABELLE PHASE II" under section 5 of the said Act bearing **MAHARERA Project Registration No. P52100007858** (hereinafter referred to as the "**said Project**"). On the

MahaRERA Project registration webpage the proposed completion date (PDC) of the said Project is mentioned as 05.12.2018, revised completion date (RCD) is mentioned as 05.06.2019 and the extended date of completion (EDC) is 04.12.2020 wherein the extension under section 6 was granted up to 04.06.2020 and thereafter further extension of 6 months was granted by MahaRERA on account of Covid-19 pandemic. The said Project as on date is a lapsed project.

2. The Complainants are seeking the following reliefs:

SR. NO.	COMPLAINT NO.	RELIEFS SOUGHT
1.	CC00500000053983	<i>That I want to retain the flat. That I would like to claim the interest loss (as per RERA's interest rate for the delay in possession) for the delay in possession against the payment of 4282368.00 which we have paid till date. That need your support to claim the interest loss on Rs 4282368.00 towards my above-mentioned property/flat.</i>
2.	CC00500000053984	<i>That I want to retain the flat. That I would like to claim the interest loss (as per RERA's interest rate for the delay in possession) for the delay in possession against the payment of 4645277.00 which we have paid till date. That need your support to claim the interest loss on Rs 4645277.00 towards my above-mentioned property/flat.</i>
3.	CC00500000053986	<i>That I want to retain the flat. That I would like to claim the interest loss (as per RERA's interest rate for the delay in possession) for the delay in possession against the payment of 3720000.00 which we have paid till date. That need your support to claim the interest loss on Rs 3720000.00 towards my above-mentioned property/flat.</i>
4.	CC00500000054017	<i>A. In view of fact of delay in flat possession mentioned above, we request to give us compensation from builder as return of interest on total amount made to builder as per my home loan banks interest rate adding 2% extra interest. B. In view of the facts of poor construction and ignorance on quality of construction, we request to give us relief from builder accordingly C. In view of the facts of, builder not able to provide amenities at the time of possession we request compensation accordingly D. In view of the facts of, builder not able to provide amenities at the time of possession we request compensation accordingly.</i>
5.	CC00500000054023	<i>I want Compensation against payment made to builder. <u>NOTE:</u> However, as per last roznama the Complainants expresses their desire to stay in the Project and seek early possession together with interest and compensation for delayed possession.</i>
6.	CC00500000064616	<i>Compensation as per RERA rule against the amount paid to developer till now i.e. Rs.47,76,220/-. Over and above this Rs.5,00,000/- for mental harassment that we have gone through.</i>
7.	CC00500000064696	<i>Claiming interest for delayed possession till handing over the possession of the said flat C302 as such rate as may be prescribed under the provision of RERA guidelines. I have Paid 46,59,799.00 Rs. before 36 months from 18-01-17 for said flat - Attached payment details. <u>Note:</u></i>

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		However, the Complainant in his written submission seeks for refund of the monies paid by him.
8.	CC00500000064703	Interest to be paid on INR 39,75,840/- from Dec 2018 onwards till date of possession.
9.	CC00500000064708	The respondent have failed to handover the possession of the flat on agreed date hence I request to help me recover the interest at prescribed rate on my investment. I am paying back my home loan at ROI 7.60% PA currently. Also help me recover the fees paid for raising the complaint. My possession date has surpassed by 15 months and I seek your intervention to help recover extra amount paid and get compensated accordingly as per RERA set standards guidelines to help customers going through financial stress. Self paid downpayment - Rs.1012671 Bank disbursement - Rs.4596935 ----- ----- Total paid (inc. tax) - Rs.5901739.
10.	CC00500000064710	NOTE: Complainant has not added any reliefs in the online complaint or in any of the documents uploaded. However, as per last roznama the Complainant seeks possession and interest for delay in possession.
11.	CC00500000064741	1. I want compensation for the period of delay over the agreement timelines. 2 Amenities as per agreement 3.Direction from the Honorable Court to deliver the possession without further delay.
12.	CC00500000064818	I have booked a flat # D-702 in registered project 'Bhoomi Orabelle Phase II' situated at Ravet, Pune. The Promoter and Builder (Pankaj Yeola) have failed to hand over the possession of the flat on agreed date and therefore I am seeking your interest in investments for delayed possession. Payment made By self. Rs. 1204850 By Bank. Rs. 3129200 Stamp & Regn Rs. 286700 ----- Total amount paid Rs. 4620750.
13.	CC00500000064843	Based on above facts, I request MAHARERA support in getting compensation for delay in possession for the period of 16th Dec 2019 till date of possession.
14.	CC00500000064962	I want to retain the flat and not to withdraw from the project. That I would like to claim the interest loss (as per the Rera interest for delay in possession) which I paid till the date. I need your support to claim the interest loss towards my above mentioned property or flat. Document attached are the amount I have paid till the date.
15.	CC00500000075099	a) The Complainants pray for interest for every month of delayed possession from the Respondent on the total amount paid by the Complainants against Consideration of the said flat, from the date of possession, till getting the actual final possession of the said Flat, as per The Real Estate (Regulation and Development) Act, 2016 & Rules 2017; b) The Complainants may be permitted to adjust their claim amount towards the balance amount payable to the Respondent and balance amount be paid to the complainants; c) The Complainants also pray for direction to the Respondent for giving fixed/early possession of the said flat along with completion certificate and with all the amenities, facilities and specifications as promised in the said Agreement; d) The Complainants pray to the MahaRERA Authority to direct the Respondent to form Housing Society of the Allottees;

SR. NO.	COMPLAINT NO.	RELIEFS SOUGHT
		<p>e) The Complainants pray to the MahaRERA Authority to impose a penalty on the Respondent for contravening the provisions of the RERA Act and Rules;</p> <p>f) The claim for compensation may be granted;</p> <p>g) The amount paid by the Complainants for House rent / License fee and for home loan interest, may be taken into consideration while adjudging the quantum of compensation;</p> <p>h) Costs of the proceedings may kindly be ordered to be paid to the Complainants from the Respondent;</p> <p>i) Any others just and equitable ordered may be passed in favor of the Complainant;</p>
16.	CC00500000075168	<p>a) The Complainant pray for interest for every month of delayed possession from the Respondent on the total amount paid by the Complainant against Consideration of the said flat, from the date of possession, till getting the actual final possession of the said Flat, as per The Real Estate (Regulation and Development) Act, 2016 & Rules 2017;</p> <p>b) The Complainant may be permitted to adjust their claim amount towards the balance amount payable to the Respondent and balance amount be paid to the Complainant;</p> <p>c) The Complainant also pray for direction to the Respondent for giving fixed/early possession of the said flat along with completion certificate and with all the amenities, facilities and specifications as promised in the said Agreement;</p> <p>d) The Complainant pray to the MahaRERA Authority to direct the Respondent to form Housing Society of the Allottees;</p> <p>e) The Complainant pray to the MahaRERA Authority to impose a penalty on the Respondent for contravening the provisions of the RERA Act and Rules;</p> <p>f) The claim for compensation may be granted;</p> <p>g) The amount paid by the Complainant for House rent / License fee and for home loan interest, may be taken into consideration while adjudging the quantum of compensation;</p> <p>h) Costs of the proceedings may kindly be ordered to be paid to the Complainant from the Respondent;</p> <p>i) Any others just and equitable ordered may be passed in favor of the Complainant.</p>
17.	CC00500000085256	<p>1. Respondent be directed to deliver the possession of the said Flat as more particularly described in the details of the property as mentioned hereinabove without further delay.</p> <p>2. the Respondent be directed to provide stage-wise time schedule of completion of project, including the provisions for water, sanitation, electricity and other amenities and services along with registration of the conveyance deed of the apartment to be entered between Respondent and all flat allottees of Project Orabelle as agreed between Applicant and the Respondent in accordance to Agreement to Sell of said Flat and provide affidavit to that effect.</p> <p>3. The Respondent be directed to pay interest as per Agreement cum Settlement Deed of Rs. 4,52,364/- (Four Lakhs Fifty-Two Thousand Three Sixty-Four Only) as compensation for delay in delivering the possession of the said Flat upto 31/12/2020.</p> <p>4. The Respondent be directed to pay interest as per Agreement cum Settlement Deed and Agreement to Sell at 9%p.a. of the total amount received from the Applicant i.e. Rs. 50,24,300/- (Rupees Fifty Lakhs Twenty-Four Thousand Three Hundred) towards the consideration</p>

SR. NO.	COMPLAINT NO.	RELIEFS SOUGHT
		<p>for said Flat from 01/01/2021 till the date of actual possession of the said Flat.</p> <p>5. The Respondent be directed to issue 'Credit Note' and 'No Dues Certificate' to the Applicant as per Agreement cum Settlement Deed entered between Applicant and Respondent dated 06/01/2021.</p> <p>6. The Respondent be directed to pay an amount of Rs. 9,00,000/- (Rupees Nine Lakhs Only) until 30/01/2021 as per the resolution passed for meeting held amongst Mr. Suresh Shirude, Mr. Pankaj Yeola and flat allottees of "C" and "D" Building of Orabelle Project. That the Respondent as per the resolution dated 22/06/2019 also be directed that to pay Rs. 50,000/- (Rupees Fifty Thousand Only) per month from 01/02/2021 till the actual date of possession to the Applicant.</p> <p>7. The Respondent be directed to pay an amount if Rs. 10,00,000/- (Rupees Ten Lakhs Only) as compensation towards mental agony and the financial ordeal caused to the Applicant.</p>
18.	CC005000000085439	<p>Need flat possession at the earliest & till time need refund of amount paid to the builder with applicable interest.</p> <p><u>Note:</u> As per the last roznama, the Complainant seeks to stay in project and seeks interest and compensation for delay.</p>
19.	CC005000000095804	<p>a) The Complainants pray for interest for every month of delayed possession from the Respondent on the total amount paid by the Complainants against Consideration of the said flat, from the date of possession, till getting the actual possession of the said Flat, as per The Real Estate (Regulation and Development) Act, 2016 & Rules 2017;</p> <p>b) The Complainants may be permitted to adjust their claim amount towards the balance amount payable to the Respondent, and balance amount be paid to the complainants;</p> <p>c) The Complainants also pray for direction to the Respondent for giving fixed/early possession of the said flat along with all the amenities, facilities and specifications as promised in the said agreement;</p> <p>d) The Complainants pray to the MahaRERA Authority to direct the Respondent to form Housing Society of the Allottees;</p> <p>e) The Complainants pray to the MahaRERA Authority to impose a penalty on the Respondent for contravening the provisions of the RERA Act and Rules;</p> <p>f) The claim for compensation may be granted;</p> <p>g) The amount paid by the Complainant for home loan interest may be taken into consideration while adjudging the quantum of compensation;</p> <p>h) Costs of the proceedings of Rs. 50,000/- may kindly be ordered to be paid to the Complainants from the Respondent;</p> <p>i) Any others just and equitable ordered may be passed in favour of the Complainant;</p>
20.	CC005000000096039	<p>a) Present complaint may kindly be allowed.</p> <p>b) The respondent may kindly be directed to pay the monthly Rent Rs.12,000/-(rupees twelve Thousand per month) of Flat No.C-401 and C-604 to the complainant from December 2020 to till handing over possession of the said flats.</p> <p>c) The respondent may kindly be directed to form the association of allottee or Co-operative Housing Society as per the provisions of S.11(4) of the RERA Act.</p>

SR. NO.	COMPLAINT NO.	RELIEFS SOUGHT
		<p>d) The respondent may kindly be directed to complete the project with all amenities as early as possible and got the occupancy certificate from the competent authority.</p> <p>e) The respondent be directed to pay compensation of Rs.5,00,000/- to the complainant.</p> <p>f) Cost of the present complaint be awarded to the complainant from the respondent.</p>
21.	CC005000000106469	<p>Since the possession is delayed significantly, I request for compensation/relief under Section 18, Subsection 1 of the RERA. Section 10 in the flat agreement also mentions about the provision for compensation in case possession is delayed. I am attaching a PDF which has receipts of all downpayments done, also attaching the home loan arrangement letter which mentions disbursement. Total Downpayments amount = Rs. 15,58,111.00 Home loan amount = Rs. 36,00,000. The entire amount has been disbursed. The total amount that I have paid to the builder is Rs. 5,158,111.00 (Fifty one lakh fifty eight thousand one hundred and eleven) excluding taxes. This amount includes downpayments done and the home loan. It does not consider taxes and fees. I request for interest payment from the builder on above amount - as per Section 18, Subsection 1 of the RERA. I still wish to continue with the project - in hopes that I will get possession soon.</p>
22.	CC005000000106747	<p>That I want to retain the flat. That i would like to claim the interest loss as per Rera's interest rate for the delay in possession against the payment of Rs 43,78,248 which we have paid till date. That need your support to claim the interest loss on Rs 43,78,248 on the above mentioned flat.</p>

3. All the complaints were heard by this Authority on 20.09.2022 (listed at Sr. No. 2 to Sr. No. 23) wherein the following roznama was recorded:

SR. NO.	COMPLAINT NO.	ROZNAMA RECORDED
1.	CC005000000053983	<p>For Sr. No. 2: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 05.01.2017. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 42 lakhs against the total consideration of over Rs. 44 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</p>
2.	CC005000000053984	<p>For Sr. No. 3: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 12.01.2017. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 46 lakhs against the total consideration of over Rs. 51 lakhs. The Complainant desires to stay in the Project and seeks early</p>

SR. NO.	COMPLAINT NO.	ROZNAMA RECORDED
		<i>possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</i>
3.	CC00500000053986	<i>For Sr. No. 4: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 27.04.2019. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 37 lakhs against the total consideration of over Rs. 42 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</i>
4.	CC00500000054017	<i>For Sr. No. 5: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 2018. As per that they were to get the possession on 07.07.2019. Complainant has paid over Rs. 41 lakhs against the total consideration of over Rs. 51 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</i>
5.	CC00500000054023	<i>For Sr. No. 6: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 03.10.2016. As per that they were to get the possession on 03.10.2019. Complainant has paid over Rs. 43 lakhs against the total consideration of over Rs. 48 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</i>
6.	CC00500000064616	<i>For Sr. No. 7: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 26.11.2016. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 45 lakhs against the total consideration of over Rs. 51 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</i>
7.	CC00500000064696	<i>For Sr. No. 8: Complainant is present; Respondent is absent.</i>

SR. NO.	COMPLAINT NO.	ROZNAMA RECORDED
		<p>Complainant avers that agreement for sale was executed on 18.01.2017. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 46 lakhs against the total consideration of over Rs. 52 lakhs. In view of the delay the Complainant now seeks to withdraw from the Project and seeks full refund together with interest. The Respondent was absent. Matter proceeded ex-parte.</p> <p>Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</p>
8.	CC00500000064703	<p>For Sr. No. 9: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on December, 2016. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 39 lakhs against the total consideration of over Rs. 44 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte.</p> <p>Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</p>
9.	CC00500000064708	<p>For Sr. No. 10: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 18.07.2016. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 59 lakhs against the total consideration of over Rs. 60 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte.</p> <p>Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</p>
10.	CC00500000064710	<p>For Sr. No. 11: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 19.05.2016. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 47 lakhs against the total consideration of over Rs. 49 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte.</p> <p>Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</p>
11.	CC00500000064741	<p>For Sr. No. 12: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 22.03.2017. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 51 lakhs against the total consideration of over Rs. 56 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte.</p>

SR. NO.	COMPLAINT NO.	ROZNAMA RECORDED
		<i>Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</i>
12.	CC00500000064818	<p><i>For Sr. No. 13: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 18.07.2016. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 43 lakhs against the total consideration of over Rs. 47 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</i></p>
13.	CC00500000064843	<p><i>For Sr. No. 14: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 16.12.2016. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 44 lakhs against the total consideration of over Rs. 49 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</i></p>
14.	CC00500000064962	<p><i>For Sr. No. 15: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 10.10.2016. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 51 lakhs against the total consideration of over Rs. 54 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</i></p>
15.	CC00500000075099	<p><i>For Sr. No. 16: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 12.11.2016. As per that they were to get the possession in December, 2018. Complainant has paid over Rs. 46 lakhs against the total consideration of over Rs. 49 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The complainant also seeks formation of the society. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</i></p>
16.	CC00500000075168	<p><i>For Sr. No. 17: Complainant is present; Respondent is absent.</i></p>

SR. NO.	COMPLAINT NO.	ROZNAMA RECORDED
		<p>Complainant avers that agreement for sale was executed on 31.03.2017. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 33 lakhs against the total consideration of over Rs. 42 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</p>
17.	CC00500000085256	<p>For Sr. No. 18: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 08.07.2016. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 47 lakhs against the total consideration of over Rs. 49 lakhs. As per minutes of meeting dated 22.06.2019 the possession was to be given on 31.07.2019 and in the event there was delay for wing C and D, the Allottees would be paid certain amounts as mentioned in the minutes. Allottees seeks to stay in the Project and seeks interest for delay and also all amounts as promised in the minutes. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</p>
18.	CC00500000085439	<p>For Sr. No. 19: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 07.01.2017. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 37 lakhs against the total consideration of over Rs. 39 lakhs. As per minutes of meeting dated 22.06.2019 the possession was to be given on 31.07.2019 and in the event there was delay for wing C and D, the Allottees would be paid certain amounts as mentioned in the minutes. Allottees seeks to stay in the Project and seeks interest for delay and also all amounts as promised in the minutes. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</p>
19.	CC00500000095804	<p>For Sr. No. 20: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 29.08.2016. As per that they were to get the possession in December, 2018. Complainant has paid over Rs. 45 lakhs against the total consideration of over Rs. 49 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The complainant also seeks formation of the society. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</p>
20.	CC00500000096039	<p>For Sr. No. 21: Complainant is present; Respondent is absent.</p>

SR. NO.	COMPLAINT NO.	ROZNAMA RECORDED
		<i>The Complainant is a land owner who entered into an agreement in the year 2012 wherein 50% of the total constructed area was to be handed over to him against the land given. The date of completion was then given as 42 months. Subsequently it was revised and date of possession was given as 05.06.2019. The Complainant has sold of some flats and is seeking a rent of Rs. 12,000 per month. The Complainant seeks that the building be completed at an early date. Possession be handed over with OC and also interest for delayed possession. Parties are at liberty to file written submission if any by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</i>
21.	CC005000000106469	<i>For. Sr. No. 22: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 10.08.2020. As per that they were to get the possession on 04.12.2020. Complainant has paid entire consideration of Rs. 55 lakhs against the total consideration of over Rs. 55 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</i>
22.	CC005000000106747	<i>For Sr. No. 23: Complainant is present; Respondent is absent. Complainant avers that agreement for sale was executed on 03.06.2016. As per that they were to get the possession in 36 months from the date of executing the agreement for sale. Complainant has paid over Rs. 43 lakhs against the total consideration of over Rs. 58 lakhs. The Complainant desires to stay in the Project and seeks early possession together with interest and compensation for delayed possession. The Respondent was absent. Matter proceeded ex-parte. Parties are at liberty to file written submissions, if any, by the 07.10.2022. Subsequent to which, the matter will be reserved for orders.</i>

4. The brief facts as submitted by the Complainants in their respective complaints are tabulated for ease of reference hereinbelow:

SR. NO.	COMPLAINT NOS. / DATE OF FILING	FLAT NO./ WING NO.	DATE OF AFS ¹ /AD ² / DA ³	POSSESSION DATE	TOTAL CONSIDERATION (INR)	TOTAL AMOUNT PAID (INR)	PRE/POST RERA
1.	CC005000000053983 26.01.2020	601/D	05.01.2017 (AFS)	36 months from the date of AFS i.e 05.01.2020 (as per AFS)	Not legible	42,82,368	PRE-RERA
2.	CC005000000053984 26.01.2020	903/D	12.01.2017 (AFS)	36 months from the date of AFS i.e. 12.01.2020 (as per AFS)	51,04,700	46,45,277	PRE-RERA
3.	CC005000000053986 26.01.2020	405/C	27.04.2019 (AD)	05.06.2019 (as per complaint) NO AFS executed only AD	40,00,000	37,20,000	POST-RERA

1 AFS- Agreement for Sale

2 AD- Assignment Deed

3 DA- Development Agreement

SR. NO.	COMPLAINT NOS. / DATE OF FILING	FLAT NO. / WING NO.	DATE OF AFS/AD/DA ³	POSSESION DATE	TOTAL CONSIDERATION (INR)	TOTAL AMOUNT PAID (INR)	PRE/POST RERA
				As per AD - after the receipt of completion certificate from PCMC			
4.	CC00500000054017 26.02.2022	905/C	03.05.2018 (AFS)	05.06.2019 (as per AFS)	41,65,500	41,98,824	POST-RERA
5.	CC00500000054023 15.02.2020	102/D	03.10.2016 (AFS)	December 2017 (as per complaint) No AFS/relevant possession clause page uploaded	43,22,460	38,89,294	PRE-RERA
6.	CC00500000064616 19.09.2020	103/D	26.11.2016 (AFS)	36 months from the date of AFS i.e. 25.11.2019 (as per AFS)	51,35,720	47,76,220	PRE-RERA
7.	CC00500000064696 27.10.2020	302/C	19.01.2017 (AFS)	36 months from the date of AFS i.e. 19.01.2020 (as per AFS)	52,59,800	46,59,799	PRE-RERA
8.	CC00500000064703 03.10.2020	1006/C	15.11.2016 (AFS)	December 2018 (as per AFS)	44,17,600	39,75,840	PRE-RERA
9.	CC00500000064708 10.11.2020	603/D	18.07.2016 (AFS)	36 months from the date of AFS i.e. 18.07.2019 (as per AFS)	53,11,500	59,01,739	PRE-RERA
10.	CC00500000064710 05.10.2020	206/D	20.05.2016 (AFS)	No AFS/relevant possession clause page uploaded	49,94,200	4794432	PRE-RERA
11.	CC00500000064741 26.10.2021	904/D	22.03.2017 (AFS)	36 months from the date of AFS i.e. 22.03.2020 (as per AFS)	50,16,810	48,65,652	PRE-RERA
12.	CC00500000064818 10.11.2020	702/D	18.07.2016 (AFS)	36 months from the date of AFS i.e. 22.03.2020 (as per AFS)	42,70,000	46,20,750	PRE-RERA
13.	CC00500000064843 18.11.2020	606/C	16.12.2016 (AFS)	No AFS/relevant possession clause page uploaded	43,74,400	-	PRE-RERA
14.	CC00500000064962 23.12.2020	905/D	10.10.2016 (AFS)	36 months from the date of AFS i.e. 10.10.2019 (as per Complaint) No AFS/relevant possession clause page uploaded	50,53,000	49,95,100	PRE-RERA
15.	CC00500000075099 20.01.2021	503/C	13.11.2016 (AFS)	December 2018 (as per AFS)	49,50,000	52,34,030	PRE-RERA
16.	CC00500000075168 16.04.2021	401/D	15.04.2017 (AFS)	36 months from the date of AFS i.e. 15.04.2020 (as per AFS)	42,88,000	38,25,560	PRE-RERA
17.	CC00500000085256 25.02.2021	703/D	08.07.2019 (AFS)	08.07.2019 (as per Complaint) No AFS/relevant possession clause page uploaded	No doc	50,24,300	POST-RERA
18.	CC00500000085439 20.09.2022	605/D	07.01.2017 (AFS)	No AFS/relevant possession clause page uploaded	39,44,800	-	PRE-RERA
19.	CC00500000095804 30.07.2021	706/D	29.08.2016 (AFS)	December 2018 (as per AFS)	49,29,250	51,10,630	PRE-RERA
20.	CC00500000096039 20.09.2021	401/402/ 603/604/ 906/C	08.11.2012 (DA)	42 months from the date of DA (as per Complaint) NO AFS executed only DA	--	--	PRE-RERA
21.	CC00500000106469 15.01.2022	906/D	10.08.2020 (AFS)	04.12.2020 (as per Complaint) No AFS/relevant possession clause page uploaded	46,05,555	51,58,111	POST-RERA
22.	CC00500000106747 10.03.2022	802/C	03.06.2016 (AFS)	36 months from the date of AFS i.e. 03.06.2019 (as per AFS)	51,56,400	43,78,248	PRE-RERA

5. It is observed that the Respondent was absent and the matter has been proceeded ex-parte. Further, no submissions have been made by the Respondent in spite of time being given by the Authority to file written submissions in the captioned complaints.

6. The brief observations as seen from the submissions of the Complainants are as follows:
- a. That the Complainants at Sr. No. 2 have mentioned flat No. as 601 in his complaint. However, the flat No. mentioned in the Index II of the agreement for sale is 903.
 - b. The Complainant at Sr. No. 4 have stated that the Respondent herein has failed to provide the quality of construction and also failed to provide the amenities which were promised under the agreement for sale. Therefore, the Complainant is eligible for compensation under Section 14(3) of the said Act.
 - c. That the Complainant at Sr. No. 17 has executed a notarized agreement cum settlement deed dated 06.01.2021 wherein the Respondent had agreed to provide credit note to pay the Complainant for delay in possession from 01.01.2021 till occupancy/possession of the flat which the Respondent has failed to abide by and hence he seeks reliefs under Section 18 of the said Act.
 - d. The Complainant at Sr. No. 20 is the land owner of the parcel of land bearing survey No.122 admeasuring about 7 hectare 93 are of which 2 hectare 15.50 are is developed by the Respondent for construction of the said Project vide a Development Agreement dated 31.10.2012 (hereinafter referred to as the “**said DA**”). As per the said DA, the Respondent had promised to allot 50% of the flats to the Complainant at Sr. No. 20 and his family members and had also promised to complete the said Project within 42 weeks which the Respondent has failed to complete. Further vide a registered supplementary agreement dated 23.11.2017 the Respondent allotted 11 flats to the Complainant as his share and that 5 out of the 11 allotted flats belong to phase 2.
 - e. That the Respondent has failed to form a Society although more than 51% of the units in the said Projects are sold and therefore, the Respondent have violated Section 11(4) of the said Act.
 - f. That till date the said Project has not received any Occupation Certificate (OC).

7. From the facts and the submissions made by the Parties hereinabove, the issues that needs to be considered are as follows:
- A. *Whether the complaint at Sr. No. 20 is maintainable?*
 - B. *Whether the Complainant at Sr. No. 17 can seek any remedy under Section 18?*
 - C. *Whether there is delay in handing over possession as per section 18 of the said Act?*
 - D. *Whether the Complainants except Complainant at Sr. No. 17 & 20 can seek remedy under section 18 of the said Act for delay in handover of possession?*
 - E. *Any other order?*
8. Before moving ahead, the following observations are noteworthy:
- a. The Authority observes that the Complainants at Sr. Nos. 1, 2, 4, 6 to 9, 11, 12, 15, 16, 19 & 22 have uploaded the relevant pages for the clause of possession in their respective agreements for sale.
 - b. The Complainant at Sr. No. 3 has not executed an agreement for sale for the flat purchased by her in the said Project but has executed an assignment deed wherein the clause of possession reads as “after the receipt of completion certificate from the PCMC” (*Pimpri Chinchwad Municipal Corporation*).
 - c. The Authority further observes that the Complainants at Sr. Nos. 5, 10, 13, 14, 18 & 21 have not uploaded their respective agreements for sale nor have they uploaded the relevant pages for the clause of possession in their respective agreements for sale.
 - d. The Authority also observes that the Complainant at Sr. No. 17 has submitted that he and the Respondent executed a notarized agreement cum settlement deed dated 06.01.2021 for the flat purchased in the said Project wherein the Respondent had agreed to provide credit note to pay him for delay in possession from 01.01.2021 till occupancy/possession of the flat.
 - e. The Complainant at Sr. No. 20 is a co-promoter / land owner as per the affidavit cum declaration uploaded on the MahaRERA Project registration webpage for the said Project. The said fact is also confirmed by the Complainant in its complaint at Sr. No. 20. Further there is a development agreement along with a supplementary development agreement executed

between the Parties at Sr. No. 20 whereby the Respondent herein agreed to allot 50% of the total construction to the Complainant.

9. Thus, keeping in mind the above observations, it is important to firstly examine the issue at para No. 7(A). From the observations in para No. 8(e) it is evidently as well as admittedly clear that the Complainant at Sr. No.20 is a land owner of the said Project and has been allotted 50% of the total construction by the Respondent. In this context it is important to examine whether the Complainant at Sr. No. 20 qualifies as an Allottee under section 2 (d) and/or as an aggrieved person under section 31(1) of the said Act. In this regard both the sections are reproduced hereinbelow:

“Section 2 (d) Allottee:

In relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

Section 31 - Filing of complaints with the Authority or the adjudicating officer:

(1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter allottee or real estate agent, as the case may be.

10. Thus, on the plain reading of the above-mentioned sections, it is clear that the person filing any complaint before this Authority needs to fulfil the following criteria:
- a. That an Allottee is the person to whom a plot, apartment or building has been allotted, sold or otherwise transferred by the Promoter of the Project and in order to showcase that the Allottee is an aggrieved person he needs to prove violation or contravention of the provisions of this Act.
 - b. In the complaint at Sr. No. 20, the Parties have executed a development agreement and not an agreement for sale with regard to allotting the flats in the said Project. Thus, on the date of filing the Complainant at Sr. No. 20 is

neither an Allottee nor an aggrieved person with regard to the allotted flats in the said Project.

11. Hence, the Complainant at Sr. No. 20 does not qualify as an Allottee under section 2(d) of the said Act and there by cannot be termed as an aggrieved person under section 31 of the said Act. Thus, the complaint at Sr. No.20 is not maintainable and hence, the answer to the **issue at para No.7(A)** is answered in **negative**.

12. With regard to the **issue at para No. 7(C)** it is important to examine “**possession**” as contemplated under section 18 of the said Act: In this regard section 18 is reproduced hereinbelow:

“18. (1) If the promoter fails to complete or is unable to give possession of an apartment, plot or building, –

(a) in accordance with the terms of the agreement for sale or, as the case may be, duly completed by the date specified therein; or

(b) due to discontinuance of his business as a developer on account of suspension or revocation of the registration under this Act or for any other reason, he shall be liable on demand to the allottees, in case the allottee wishes to withdraw from the project, without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building, as the case may be, with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act:

Provided that where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.”

From the plain reading of section 18 it is very clear that if the Promoter (*Respondent herein*) fails to handover possession as per the terms of the agreements for sale/assignment deed by the specified date therein, the Allottees (*except Complainant at Sr. No. 20*) have a choice either to withdraw from the said Project or stay in the said Project. Further, in case the Allottee chooses to withdraw from the said Project, he is entitled to claim interest from the Promoter (*Respondent herein*) at such rate as may be prescribed including compensation. Further in case the Allottees chooses to stay in the said Project, they shall be paid

interest for every month of delay, till the handing over of the possession, at such rate as may be prescribed.

13. Thus, it is admittedly clear that there is a delay on part of the Respondent with regard to the handover of possession with Occupation Certificate (OC) as per the respective agreements for sale / assignment deed of each of the Complainants. In view thereof, the actual specific date of possession as per each of their agreements for sale/assignment deed is tabulated hereinbelow:

SR. NO.	COMPLAINT NOS.	POSSESSION DATE	SPECIFIC POSSESSION DATE	REMARKS
1.	CC00500000053983	36 months from the date of AFS i.e 05.01.2020	05.10.2020	As per AFS
2.	CC00500000053984	36 months from the date of AFS i.e. 12.01.2020	12.01.2020	As per AFS
3.	CC00500000053986	After the receipt of completion certificate from PCMC	Not yet arrived	As per AD
4.	CC00500000054017	05.06.2019	05.06.2019	As per AFS
5.	CC00500000054023	<i>No AFS/relevant possession clause page uploaded</i>	05.12.2018	As per MahaRERA PCD
6.	CC00500000064616	36 months from the date of AFS i.e. 25.11.2019	25.11.2019	As per AFS
7.	CC00500000064696	36 months from the date of AFS i.e. 19.01.2020	19.01.2020	As per AFS
8.	CC00500000064703	December 2018	31.12.2018	As per AFS
9.	CC00500000064708	36 months from the date of AFS i.e. 18.07.2019	18.07.2019	As per AFS
10.	CC00500000064710	<i>No AFS/relevant possession clause page uploaded</i>	05.12.2018	As per MahaRERA PCD
11.	CC00500000064741	36 months from the date of AFS i.e. 22.03.2020	22.03.2020	As per AFS
12.	CC00500000064818	36 months from the date of AFS i.e. 22.03.2020	22.03.2020	As per AFS
13.	CC00500000064843	<i>No AFS/relevant possession clause page uploaded</i>	05.12.2018	As per MahaRERA PCD
14.	CC00500000064962	<i>No AFS/relevant possession clause page uploaded</i>	05.12.2018	As per MahaRERA PCD
15.	CC00500000075099	December 2018	31.12.2018	As per AFS
16.	CC00500000075168	36 months from the date of AFS i.e. 15.04.2020	15.04.2020	As per AFS
17.	CC00500000085256	<i>Notarised agreement cum settlement deed</i>	NA	Not to adjudicate
18.	CC00500000085439	<i>No AFS/relevant possession clause page uploaded</i>	05.12.2018	As per MahaRERA PCD
19.	CC00500000095804	December 2018	31.12.2018	As per AFS
21.	CC005000000106469	<i>No AFS/relevant possession clause page uploaded</i>	04.12.2020	As per MahaRERA EDC/ POST RERA AFS
22.	CC005000000106747	36 months from the date of AFS i.e. 03.06.2019	03.06.2019	As per AFS

- a. Thus, from the table it is observed that the Complainants at Sr. Nos. 1, 2, 4, 6 to 9, 11, 12, 15, 16, 19 & 22 have uploaded the relevant pages for the clause of possession in their respective agreements for sale and hence their specific date of possession is mentioned in the column namely "SPECIFIC POSSESSION DATE".
- b. For the Complainant at Sr. No. 3 no specific date of possession is prescribed instead, the Complainant at Sr. No. 3 has executed an assignment deed wherein the clause of possession reads as "after the receipt of completion certificate from the PCMC" (*Pimpri Chinchwad Municipal Corporation*) hence the specific date of possession for the Complainant at Sr. No. 3 has not yet arrived as the completion

certificate from PCMC is not obtained by the Respondent as the said Project is admittedly not yet complete.

- c. Lastly, the Complainants at Sr. Nos. 5, 10, 13, 14, 18 & 21 have not uploaded their respective agreements for sale nor have they uploaded the relevant pages for the clause of possession in their respective agreements for sale. Since the Complainants at Sr. Nos. 5, 10, 13, 14, 18 & 21 have failed to provide any evidences on the specific date of completion arrived at between them and the Respondent Promoter, the Authority is left within no option but to take dates as submitted to it as mandated by the said Act as the relevant completion dates. Hence their specific date of possession shall be as per the dates of completion submitted by the Respondent on the MahaRERA Project registration webpage. In this regard it is pertinent to note that the Complainants at Sr. Nos. 5, 10, 13, 14, & 18 have their agreements for sale registered before RERA came into existence hence the date of completion in these complaints shall be considered as the proposed completion date (PCD) as mentioned in the column namely "SPECIFIC POSSESSION DATE". Further, the Complainant at Sr. No. 21 has the agreement for sale registered after RERA came into existence hence the date of completion in this complaint shall be considered as the extended date of completion (EDC) as mentioned in the column namely "SPECIFIC POSSESSION DATE". Here it is important to note that the agreement for sale for the Complainant at Sr. No. 21 was executed after the revised completion date of the said Project.
- d. Further, with regard to Complainant at Sr. No. 17 and to answer the **issue at para No. 7(B)**, it is observed that this Complainant had executed a notarised agreement sum settlement deed on 06.01.2021. It is observed that this Complainant has grievance with respect to the compliance of his settlement deed. This settlement deed addresses the specific grievances of delay in possession which is sought to be adjudicated before the Authority. The Complainant at Sr. No. 17 having settled the grievance with the Respondent is now seeking to involve RERA for a remedy having found that the settlement has not been honoured. The Authority at this juncture shall not take up adjudication of this complaint. The Authority shall limit itself to directing both the Parties here to adhere to and comply with the settlement deed executed on 06.01.2021. Thus, the complaint at Sr. No. 17 is

disposed of as admittedly settled between the Parties herein and the answer to the **issue at para No. 7(B)** is in negative.

- e. Further, moving ahead it is also pertinent to note that since MahaRERA came into effect on 01.05.2017 on this date the pre-RERA agreements i.e. for the Complainants at Sr. Nos. 5, 10, 13, 14, & 18 with its covenants were binding on the Complainants and the Respondent. With these binding pre-RERA agreements, the Parties have now stepped into the era of RERA. Now at this juncture none of the Parties can use RERA as an instrument to open up and rewrite contracts which have come into effect pre-RERA. This Authority cannot re-write a contract which was executed before the commencement of MahaRERA and that which was entered into between the Parties with complete awareness. The said Act does not envisage that the contracts / agreements entered into by the Parties prior to the commencement of MahaRERA shall be deemed to have been re-written as per the said Act nor does the said Act envisage fresh contracts be drawn up. The Respondent has also made no case for the Authority to re-examine the dates of completion as committed.
- f. Thus, the Respondent has failed to handover possession of the flats on the agreed date and thus, violated the provisions of section 18 mentioned hereinabove. Thus, there is a clear delay on part of the Respondent in handover of possession of the flats purchased by the Complainants and hence the answer to the issue at **para No. 7(C)** is in **affirmative**.

14. With regard to the **issue at para No. 7(D)** it is important to note that the Complainants except Complainants at Sr. No. 7 are desirous of staying the said Project and seeking handover of their respective flats along with interest for delay in possession. In this regard the Authority allows the complaints except complaints at Sr. No. 7 and also complaints at Sr. Nos. 17 & 20 (*dealt with separately*) and grants interest for delay in possession from the date mentioned in the column namely 'INTEREST APPLICABLE FROM' up to the date of handover of possession of their respective flats with OC. However, the Authority observes

that the Complainant at Sr. No. 7 is desirous of withdrawing from the said Project and is seeking refund of the amounts paid along with interest. In this regard the Authority allows the complaint at Sr. No. 7 and permits withdrawal from the said Project and grants interest for delay in possession from the date mentioned in the column namely 'INTEREST APPLICABLE FROM' up to the date of realisation of the refund amounts. It is important to note here that the interest cannot be made applicable from the date of payment/ deposit because the Allottee who decides to stay in the said Project despite the delay are entitled to interest for the delay that takes place from the specific date of possession mentioned in the agreements for sale and that the Authority cannot make withdrawal more lucrative than continuing with the said Project and thereby jeopardise or further delay the project completion for those who have chosen to stay in the said Project. The Complainants at Sr. No. 17 and Sr. No. 20 have been dealt with separately.

15. Thus, the interest for delay in handover of possession shall be applicable from the date mentioned in the column namely 'SPECIFIC POSSESSION DATE' in the table hereinbelow:

SR. NO.	COMPLAINT NOS.	SPECIFICA POSSESSION DATE	INTEREST APPLICABLE FROM
1.	CC005000000053983	05.10.2020	06.10.2020
2.	CC005000000053984	12.01.2020	13.01.2020
3.	CC005000000053986	Not yet arrived	NA
4.	CC005000000054017	05.06.2019	06.06.2019
5.	CC005000000054023	05.12.2018	06.12.2018
6.	CC005000000064616	25.11.2019	26.11.2019
7.	CC005000000064696	19.01.2020	20.01.2020
8.	CC005000000064703	31.12.2018	01.01.2019
9.	CC005000000064708	18.07.2019	19.07.2019
10.	CC005000000064710	05.12.2018	06.12.2018
11.	CC005000000064741	22.03.2020	23.03.2020
12.	CC005000000064818	22.03.2020	23.03.2020
13.	CC005000000064843	05.12.2018	06.12.2018
14.	CC005000000064962	05.12.2018	06.12.2018
15.	CC005000000075099	31.12.2018	01.01.2019
16.	CC005000000075168	15.04.2020	16.04.2020
18.	CC005000000085439	05.12.2018	06.12.2018
19.	CC005000000095804	31.12.2018	01.01.2019
21.	CC005000000106469	04.12.2020	05.12.2020
22.	CC005000000106747	03.06.2019	04.06.2019

Thus, Complainants except Complainants at Sr. Nos. 17 & 20 are allowed to seek interest for delay in handover of possession and hence the answer to the issue at **para No. 7(D)** is in **affirmative**.

16. It is also noted that while perusing the MahaRERA Project registration webpage the said Project is lapsed and the Respondent has taken no steps to seek extension of the same till date. The Respondent has violated the provisions of the said Act and hence is liable to pay Rs.1,00,000/- penalty under section 61 of the said Act to MahaRERA office within 30 days from the date of this order and is also directed to take immediate steps for seeking extension of the said Project within 30 days from the date of this order.
17. Further since the said Project is lapsed and the Respondent has taken no steps till date to seek any extension, this Authority shall keep the said Project registration in **abeyance** and the Respondent shall not advertise, market, book, sell or offer for sale, or invite person/s to purchase in any manner any apartment in the said Project till he obtains extensions of the said Project from MahaRERA.
18. With regard to the last issue at para No. 7(E), the Authority notes that while all the captioned matters are being decided on merits of each of the complaints the majority of the Complainants are seeking possession of their respective flats purchased in the said Project. Thus, the issue of completion of the said Project is critical. However, the Authority notes with concern that as the Respondent has not appeared before the Authority and that the Respondent has also sought no extension nor taken any steps towards the same till date. This leaves the Authority with a critical question as to how will the said Project reach completion? In this regard the Authority lays down the following road map which the Allottees of the said Project including the Complainants herein shall follow so that the said Project attains completion:
 - a. To form an Association of Allottees (AOA) within a period of 30 days from the date of this order;

- b. To submit a list of items pending completion to the Respondent and the Authority in the said Project within 30 days of the formation of the AOA;
- c. To submit a proposed plan to the Authority with a copy to the Respondent to ensure the completion of the list of pending items in the said Project within 30 days of submitting the list of items pending completion.
- d. In order to facilitate the above-mentioned steps, the Authority shall appoint Mr. Sanjay Deshmukh, IAS (*Rtd.*) from MahaRERA (*Chief Consultant, Stressed Projects*) to ensure that the steps are taken in a time bound manner and any hurdle in taking such steps may be dealt by seeking proper guidance from the Authority.
- e. The AOA to render all co-operation to ensure an early completion of the said Project. Hence the answer to the **issue at para No. 7(E)** is answered **accordingly**.

FINAL ORDER

In view of the observations hereinabove, the following order is passed:

- A. The complaint at Sr. No. 17 is **disposed of** with direction to comply with the agreement cum settlement deed dated 06.01.2021.
- B. The complaint at Sr. No. 20 is **dismissed** as not maintainable.
- C. All the complaints (except at Sr. Nos. 7, 17 & 20) are allowed to seek interest for delay in handover of possession from the date mentioned in the column namely 'INTEREST APPLICABLE FROM' in table at para No.15 hereinabove at the rate as prescribed *under Rule 18 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Disclosures on Website) Rules 2017* till handover of possession with OC. The total interest accrued up to 31.03.2023 shall be payable by the Respondent in three equal instalments starting from 01.04.2023 onwards. Further the interest from 01.04.2023 shall be paid on monthly basis by the 5th of every month starting from April 2023 till handover of possession with OC.
- D. The complaint at Sr. No. 7 is allowed to withdraw and seek to refund of the amounts paid by them together with interest from the date mentioned in the

column namely 'INTEREST APPLICABLE FROM' in table at para No.15 hereinabove at the rate as prescribed *under Rule 18 of the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Disclosures on Website) Rules 2017* till the amounts are realised.

- E. Further, the Respondent is duty bound to cancel the agreement for sale of the Complainant at Sr. No. 7 upon the refund of the amounts with interest. Needless to say, that in case the Complainant at Sr. No. 7 has taken any housing / mortgage loan which has created lien on the flat purchased by him, he shall be duty bound to settle the dues of the Financial Institution first, for releasing the flat from the mortgage / lien so that it is free from any encumbrances. It is directed that the amounts of refund and the interest thereupon shall be paid by the Respondent to the Complainant at Sr. No.7 upon the OC being received but in no case later than 31.12.2023 for the said Project in 3 equal monthly instalments thereafter immediately. Needless to say, in case the Respondent so desires to pay the same earlier the period of interest calculation shall be from the date mentioned in column namely 'INTEREST APPLICABLE FROM' in table at para No.15 hereinabove up to the date of realisation of the refund with interest amounts.
- F. Further, with regard to the payment of interest, it is further directed that the Respondent is entitled to claim the benefit of "*moratorium period*" as mentioned in the Notifications / Orders Nos. 13, 14 and 21 dated 02.04.2020, 18.05.2020 and 06.08.2021 respectively issued by the MahaRERA. The moratorium period shall be deducted from the total period for which interest is payable. However, with regard to the complaint at Sr. No. 21 the moratorium period shall not be deducted as the EDC is already inclusive of the moratorium period.
- G. The way forward enumerated in answer to the issue No. 7(E) at para No.18 shall be complied with by all the Parties to ensure completion of the said Project.
- H. The Respondent is directed to pay Rs.1,00,000/- as penalty under section 61 of the said Act to MahaRERA office and is also directed to take immediate steps

for seeking extension of the said Project within 30 days from the date of this order.

- I. The Secretary, MahaRERA to put the said Project registration number in **abeyance**.
- J. The Respondent herein is directed to not advertise, market, book or create any third-party rights by offer for sale, enter into agreement for sale for any apartment in the said Project, till such time.
- K. The Secretary MahaRERA is hereby directed to block access to the said Project registration number, take a stock of and review all returns filed till date and ensure that the same are in safe custody. Further on the website pertaining to the said Project registration number the operative part of this order should be displayed.
- L. No order as to cost.

(Ajoy Mehta)
Chairperson, MahaRERA